

Docket No. RSW920000039US1 (7161-096U)

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Christopher GAGE, et al.	:	Confirmation Number: 8638
	:	
Application No.: 09/557,708	:	Group Art Unit: 2141
	:	
Filed: April 25, 2000	:	Examiner: K. Shingles
	:	
For: URL BASED STICKY ROUTING TOKENS USING A SERVER SIDE COOKIE JAR		

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following remarks are submitted in response to the Notification of Non-Compliant Appeal Brief dated January 11, 2008 (hereinafter the Notice).

REMARKS

On page 2 of the Notice, the following was stated:

Regarding Item 4; dependent claims 4, 9, 15, and 25 are argued separately in the argument's section and therefore should be indicated and summarized in the summary of claimed subject matter section. Correction is required.

For ease of reference, 37 C.F.R. § 41.37(c)(1)(v), which describes the requirements for the Summary of Claimed Subject Matter section of the Appeal Brief, is reproduced below:

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

This subsection includes two sentences, and notably, the second sentence (i.e., starting "[f]or each independent claim ...") refers to claims that include "means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph." However, none of dependent claims 4, 9, 15, and 25, which argued separately in the Argument section of the Fourth Appeal Brief, include claim language described in the sixth paragraph of 35 U.S.C. § 112. Thus, only the first sentence (i.e., the underlined sentence) of 37 C.F.R. § 41.37(c)(1)(v) applies to the present Fourth Appeal Brief.

Since only the first sentence of 37 C.F.R. § 41.37(c)(1)(v) applies to the present Appeal Brief, what is required of the Summary of Claimed Subject Matter section of the Appeal Brief is: (i) a concise explanation of the subject matter in each of the independent claims and (ii) the concise explanation refers to the specification and to the drawings. Completely absent from this sentence, however, is a requirement for a concise explanation of the subject matter in each of the

dependent claims. Therefore, the requirement imposed in the Notice for a summary of dependent claims 4, 9, 15, and 25 is improper and not supported by the language of 37 C.F.R. § 41.37(c)(1)(v). In this regard, Appellants respectfully submit that the Fourth Appeal Brief meets the requirements set forth in 37 C.F.R. § 41.37(c)(1)(v).

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: January 16, 2007

Respectfully submitted,

/Scott D. Paul/

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